

(e) The employee may thereafter request either (1) indemnification to satisfy a verdict, judgment or award entered against the employee or (2) payment to satisfy the requirements of a settlement proposal. The employee shall submit a written request, with documentation including copies of the verdict, judgment, award or settlement proposal, as appropriate, to the head of his or her division or office, who thereupon shall submit to the General Counsel, in a timely manner, a recommended disposition of the request. The General Counsel shall also seek the views of the Department of Justice. The General Counsel shall forward the request, the division or office's recommendation and the General Counsel's recommendation to the Commission for decision.

(f) Any payment under this section either to indemnify a Commodity Futures Trading Commission employee or to settle a personal damage claim shall be contingent upon the availability of appropriated funds of the Commodity Futures Trading Commission.

PART 143—COLLECTION OF CLAIMS OWED THE UNITED STATES ARISING FROM ACTIVITIES UNDER THE COMMISSION'S JURISDICTION

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AUTHORITY: 7 U.S.C. 9 and 15, 9a, 12a(5), 13a, 13a-1(d), and 13(a); 31 U.S.C. 3701-3720E; 28 U.S.C. 2461 note.

SOURCE: 50 FR 5384, Feb. 8, 1985, unless otherwise noted.

§ 143.1 Purpose.

This part provides procedures that the Commission will use to collect debts owed the United States arising from activities under the Commission's jurisdiction. As applicable, these procedures are based upon, and conform to, the Federal Claims Collection Act, as amended, 31 U.S.C. 3701-3720E; the Federal Claims Collection Standards, 31 CFR Parts 900-905, issued by the Department of the Treasury and the Department of Justice; administrative wage garnishment regulations issued by the Department of the Treasury, 31 CFR 285.11; and other laws applicable to the collection of non-tax debts owed to the United States arising from activities under the Commission's jurisdiction. Subpart A describes procedures for collection by offset against obligations of the United States to the debtor, by compromise, and by referral to the Department of Justice for litigation. It also sets forth the Commission's policy on collecting interest on unpaid claims, the method used in calculating such interest, and the maximum inflation-adjusted civil monetary penalties that may be assessed and enforced for each violation of the Commodity Exchange Act or regulations or orders of the Commission promulgated thereunder. Subpart B describes procedures for collection by administrative garnishment of the debtor's wages.

[69 FR 52997, Aug. 31, 2004]

Subpart A—General Provisions

§ 143.2 Notice of claim.

(a) The Commission will send a written notice to any person who owes payment to the United States under this part, stating the basis for the claim, the interest, penalties, and administrative costs that may be imposed for non-payment, and the date full payment is due.

(b) If the claim is disputed, the debtor shall respond to the notice in writing and state the reasons for non-payment. If the claim is not disputed but full payment is not made by the date indicated in the notice, the debtor

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shall state the reasons for the failure to make full payment.

(c) If no response or an unsatisfactory response is received by the date indicated in the notice, the Commission may take further action as appropriate under the Commodity Exchange Act or regulations thereunder, or under 31 CFR parts 900–905 or the Federal Claims Collection Act as amended, 31 U.S.C. 3701–3720E.

[50 FR 5384, Feb. 8, 1985, as amended at 69 FR 52997, Aug. 31, 2004]

§ 143.3 Interest, penalty charges, and administrative costs.

(a) The Commission will assess interest on unpaid claims. The rate of interest assessed shall be the rate of the current value of funds to the U.S. Treasury (*i.e.*, the Treasury tax and loan account rate) as prescribed and published by the Secretary of the Treasury. The Commission will charge penalty fees of not more than 6 percent per year on any portion of a claim that is delinquent for more than 90 days. The Commission will also impose actual administrative costs to cover the processing and handling of delinquent claims.

(b) Interest on claims will be charged and will run from the date the notice of claim is mailed if the amount of the claim is not paid within 30 days from that date. Interest will be calculated only on the principal of the claim. The rate of interest charged is the rate in effect on the date from which interest begins to run. The rate will remain fixed for the duration of the indebtedness.

(c) The Commission may waive in whole or in part interest, penalty charges or administrative costs if it finds that:

(1) The debtor is unable to pay any significant sum within a reasonable period of time;

(2) Collection of interest or penalty charges jeopardizes collection of the principal of the claim; or

(3) It is in the best interests of the United States.

§ 143.4 Collection by offset.

(a) Whenever feasible, the Commission will collect claims under this part by means of administrative offset

against obligations of the United States to the debtor.

(b) The Commission will notify the debtor in writing of its intent to use offset procedures to collect the debt unless the debtor agrees to repayment. The notice to the debtor shall include the type and amount of the claim and an explanation of the debtor's rights for records and review under 31 U.S.C. 3716(a).

(c) The Commission will seek to coordinate administrative offset with other federal agencies in accordance with 4 CFR part 102.

§ 143.5 Collection by compromise.

The Commission may settle claims not exceeding \$100,000 (excluding interest) by compromise at less than the principal amount of the claim if—

(a) The debtor shows an inability to pay the full amount within a reasonable period of time;

(b) The Government would be unable to enforce collection in full through litigation or administrative means within a reasonable period of time;

(c) The cost of collecting the claim in full is not justified by the amount of the claim; or

(d) The Commission's enforcement policy would be served by settlement of the claim for less than the full amount.

[50 FR 5384, Feb. 8, 1985, as amended at 57 FR 61292, Dec. 24, 1992]

§ 143.6 Referral for litigation.

Claims that cannot be collected by the Commission under this part or for which collection action cannot be ended or suspended under 4 CFR part 104 will be referred to the Department of Justice for litigation.

§ 143.7 Delegation of authority to the Executive Director.

(a) The Commission hereby delegates, until such time as the Commission orders otherwise, to the Executive Director or to any Commission employee under the Executive Director's supervision as he or she may designate, authority to take action to carry out subpart A and subpart B of this part and the requirements of 31 CFR parts 900–905 and 31 CFR 285.11.